

05-25-06

Express Mail Mailing Label No. EV832482840US

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PATENT
Attorney Docket No.: WYE-007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Corcoran *et al.* CONF. NO.: 5325
SERIAL NO.: 10/628,432 GROUP NO.: 1656
FILING DATE: July 29, 2003 EXAMINER: William Moore
TITLE: Modified ADAMTS4 Molecules and Method of Use Thereof

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 35 U.S.C. § 154(b) AND 37 C.F.R. § 1.705(b)**

Sir:

This is a request for reconsideration of the patent term adjustment indicated in the Notice of Allowance of February 24, 2006, for the above-referenced patent application. A copy of the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) is attached and labeled "Exhibit 1."

In accordance with 37 C.F.R. § 1.705(b)(1), Applicants enclose a check for \$200.00 to cover the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiency and credit any overpayment to deposit account 50-1721.

Applicants provide the following statement of facts in accordance with 37 C.F.R. § 1.705(b)(2):

1. 37 C.F.R. § 1.705(b)(2)(i)

Applicants submit that the correct patent term adjustment under 35 U.S.C. § 154(b) up to the mailing date of the Notice of Allowance is 359 days. The basis for the adjustment is as follows:

According to 37 C.F.R. § 1.703(a)(1), Applicants are entitled to a period of adjustment under 37 C.F.R. § 1.702(a) totaling the number of days in the period beginning on the day after the day that is fourteen months after the date on which he

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application was filed and ending on the date of mailing of an action under 35 U.S.C. § 132 or a notice of allowance. Applicants submit that the instant application was filed on July 29, 2003, and a first action in the form of a Restriction Requirement was received on September 16, 2005. As shown below, this entitles Applicants to 352 days of patent term adjustment. This has been acknowledged by the Patent Office in the Patent Term Adjustment History of the PAIR file for the instant application (see “Exhibit 2”).

In addition, according to 37 C.F.R. § 1.703(a)(1), Applicants are entitled to a period of adjustment under 37 C.F.R. § 1.702(a) totaling the number of days in the period beginning on the day after the date that is four months after the date a reply under 37 C.F.R. § 1.111 was filed and ending on the date of mailing of an action under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151. Applicants submit that a response to the Restriction Requirement was filed on October 17, 2005, and a notice of allowance was not mailed under February 24, 2006. As shown below, this delay entitles Applicants to an additional 7 days of patent term adjustment. This has been acknowledged by the Patent Office in the Patent Term Adjustment History of the PAIR file for the instant application (see “Exhibit 2”).

2. 37 C.F.R. §§ 1.705(b)(2)(ii) and 1.703(a)

The relevant dates under 37 C.F.R. § 1.703(a)(1) specifying the period of adjustment under 37 C.F.R. § 1.702(a)(1) and (2) are as follow:

Adjustment under 37 C.F.R. § 1.702(a)(1)

i.	Filing date of this application:	July 29, 2003
ii.	Day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a):	September 30, 2004
iii.	Date of mailing of first action under 35 U.S.C. § 132:	September 16, 2005

The number of days in the period beginning on September 30, 2004, and ending on September 16, 2005, is **352 days.**

Adjustment under 37 C.F.R. § 1.702(a)(2)

i.	Date a reply under 37 C.F.R. § 1.111 was filed:	October 17, 2005
ii.	Day after the date that is four months after the date a reply under 37 C.F.R. § 1.111 was filed:	February 18, 2006
iii.	Date of mailing of notice of allowance 35 U.S.C. § 151:	February 24, 2006

The number of days in the period beginning on February 18, 2006, and ending on February 24, 2006, is **7 days.**

3. 37 C.F.R. § 1.705(b)(2)(iii)

Applicants submit that the patent to be issued is not subject to a terminal disclaimer.

4. 37 C.F.R. § 1.705(b)(2)(iv)

Applicants believe that there are no circumstances that constitute a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

However, as shown in the Patent Term Adjustment History of the PAIR file for the instant application, the Patent Office reduced the Patent Term Adjustment for the instant application by 106 days because of a supplemental response filed on January 31, 2006. Applicants submit that this reduction is an error (see “Exhibit 2”). While the filing of a supplemental paper may result in the reduction of patent term adjustment under 37 C.F.R. § 1.704(c)(8), if the supplemental paper is expressly requested by the examiner, the reduction under 37 C.F.R. § 1.704(c)(8) does not apply. Applicants filed a supplemental paper on January 31, 2006, after filing a response to the restriction requirement on October 17, 2005; the supplemental paper filed on January 31, 2006, was expressly requested by the Examiner. This is supported by the Examiner’s Amendment, mailed with the Notice of Allowance on February 24, 2006, which states that “Applicant’s [sic] Amendment filed 31 January 2006 was requested by the Examiner in a telephonic interview on 30 January 2006” (see Exhibit 3). Further, in the Interview Summary mailed with the Notice of Allowance, the Examiner stated that “the examiner requested that Applicant’s [sic] counsel submit...an amendment” (see Exhibit 4).

Because Applicants' submission was expressly requested by the Examiner, as shown *supra*, Applicants submit that the Patent Office erred in reducing the patent term adjustment of the instant application by 106 days. Applicants respectfully request that the Patent Office reconsider the patent term adjustment and award Applicants a patent term adjustment under 37 C.F.R. § 1.702 totaling 359 days as discussed *supra*.

5. 37 C.F.R. §§ 1.705(b)(2)(ii) and 1.703(f)

The adjustment as specified in 37 C.F.R. § 1.703(f) to which the patent is entitled is the period of 359 days calculated under 37 C.F.R. § 1.703(a)(1).

If, for any reason, this Petition is found not to comply with the requirements of 37 C.F.R. § 1.705, or is otherwise found improper, it is requested that the undersigned attorney be contacted by telephone.

Respectfully submitted,



Brian A. Fairchild
Attorney for the Applicants
Kirkpatrick & Lockhart Nicholson
Graham LLP
State Street Financial Center
One Lincoln Street
Boston, Massachusetts 02111

Date: May 24, 2006
Reg. No. 48,645

Tel. No.: (617) 261-3169
Fax No.: (617) 261-3175

TRANSMITTAL
FORM



Application Serial Number	10/628,432
Filing Date	July 29, 2003
First Named Inventor	Corcoran
Group Art Unit	1656
Examiner Name	William Moore
Attorney Docket No.	WYE-007
Patent No.	Not applicable
Issue Date	Not applicable

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Check Attached <input type="checkbox"/> Copy of Fee Transmittal Form	<input type="checkbox"/> Copy of Notice to File Missing Parts of Application <input type="checkbox"/> Formal Drawing(s)	<input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences <input type="checkbox"/> Appeal Brief (in triplicate)
<input type="checkbox"/> Amendment/Response <input type="checkbox"/> Preliminary <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets _____]	<input type="checkbox"/> Request For Continued Examination (RCE) Transmittal <input type="checkbox"/> Power of Attorney (Revocation of Prior Powers) <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> CD(s) for large table or computer program <input type="checkbox"/> Amendment After Allowance <input type="checkbox"/> Request for Certificate of Correction <input type="checkbox"/> Certificate of Correction (in duplicate)	<input type="checkbox"/> Status Inquiry <input checked="" type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8 <input type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8 <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below) <input checked="" type="checkbox"/> Application for Patent Term Adjustment Under 35 U.S.C. § 154(b) and 37 C.F.R. § 1.705(b) with Exhibits 1-4
<input type="checkbox"/> Petition for Extension of Time		
<input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Form PTO-1449 <input type="checkbox"/> Copies of IDS Citations		
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Sequence Listing submission <input type="checkbox"/> Paper Copy/CD <input type="checkbox"/> Computer Readable Copy <input type="checkbox"/> Statement verifying identity of above		

CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator
 Kirkpatrick & Lockhart Nicholson
 Graham LLP
 State Street Financial Center
 One Lincoln Street
 Boston, MA 02111-2950
 Tel. No.: (617) 261-3100
 Fax No.: (617) 261-3175

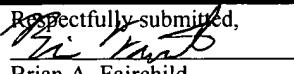
SIGNATURE BLOCK

Respectfully submitted,

Brian A. Fairchild
 Attorney for Applicants
 Kirkpatrick & Lockhart Nicholson
 Graham LLP
 State Street Financial Center
 One Lincoln Street
 Boston, MA 02111-2950

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 EE TRANSMITTAL FY 2006 MAY 24 2006	<i>Complete if Known</i>	
	Application Serial Number	10/628,432
	Filing Date	July 29, 2003
	First Named Inventor	Corcoran
	Group Art Unit	1656
	Examiner Name	William Moore
	Attorney Docket No.	WYE-007

METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																														
1. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other		3. ADDITIONAL FEES <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <thead> <tr> <th style="text-align: left;">Large Entity Fee (\$)</th> <th style="text-align: left;">Small Entity Fee (\$)</th> <th style="text-align: left;">Fee Description</th> <th style="text-align: right;">Fee Paid</th> </tr> </thead> <tbody> <tr><td>130</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>50</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>130</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>2,520</td><td>2,520</td><td>Request for ex parte reexamination</td><td></td></tr> <tr><td>120</td><td>60</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>450</td><td>225</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1020</td><td>510</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1590</td><td>795</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>2160</td><td>1080</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>500</td><td>250</td><td>Notice of Appeal</td><td></td></tr> <tr><td>500</td><td>250</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1000</td><td>500</td><td>Request for oral hearing</td><td></td></tr> <tr><td>400</td><td>400</td><td>Petitions to the Commissioner (Gp. I)</td><td></td></tr> <tr><td>200</td><td>200</td><td>Petitions to the Commissioner (Gp. II)</td><td></td></tr> <tr><td>130</td><td>130</td><td>Petitions to the Commissioner (Gp. III)</td><td></td></tr> <tr><td>180</td><td>180</td><td>Submission of Information Disclosure Statement</td><td></td></tr> <tr><td>790</td><td>395</td><td>Filing a submission after final rejection (37 CFR 1.129(a))</td><td></td></tr> <tr><td>790</td><td>395</td><td>For each additional invention to be examined (37 CFR 1.129(b))</td><td></td></tr> <tr><td>100</td><td>100</td><td>Certificate of Correction for applicant's error</td><td></td></tr> <tr><td>130</td><td>65</td><td>Submission of Terminal Disclaimer</td><td></td></tr> <tr><td colspan="2" style="text-align: right;">Other fee (Specify)</td><td>Application for Patent Term Adjustment</td><td style="text-align: right;">200.00</td></tr> <tr><td colspan="2" style="text-align: right;">Other fee (Specify)</td><td></td><td></td></tr> </tbody> </table>			Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid	130	65	Surcharge - late filing fee or oath		50	25	Surcharge - late provisional filing fee or cover sheet		130	130	Non-English specification		2,520	2,520	Request for ex parte reexamination		120	60	Extension for reply within first month		450	225	Extension for reply within second month		1020	510	Extension for reply within third month		1590	795	Extension for reply within fourth month		2160	1080	Extension for reply within fifth month		500	250	Notice of Appeal		500	250	Filing a brief in support of an appeal		1000	500	Request for oral hearing		400	400	Petitions to the Commissioner (Gp. I)		200	200	Petitions to the Commissioner (Gp. II)		130	130	Petitions to the Commissioner (Gp. III)		180	180	Submission of Information Disclosure Statement		790	395	Filing a submission after final rejection (37 CFR 1.129(a))		790	395	For each additional invention to be examined (37 CFR 1.129(b))		100	100	Certificate of Correction for applicant's error		130	65	Submission of Terminal Disclaimer		Other fee (Specify)		Application for Patent Term Adjustment	200.00	Other fee (Specify)			
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Direct all correspondence to: Patent Administrator Kirkpatrick & Lockhart Nicholson Graham LLP State Street Financial Center One Lincoln Street Boston, MA 02111-2950 Tel. No.: (617) 261-3100					Respectfully submitted,  Brian A. Fairchild Attorney for the Applicants Kirkpatrick & Lockhart Nicholson Graham LLP State Street Financial Center One Lincoln Street																																																																																											



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,432	07/29/2003	Christopher John Corcoran	WYE-007	5325
54623	7590	02/24/2006	EXAMINER	
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP/WYETH 75 STATE STREET BOSTON, MA 02109-1808		MOORE, WILLIAM W		
		ART UNIT		PAPER NUMBER
		1656		
DATE MAILED: 02/24/2006				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 253 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 253 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Search results as of: 05-10-2006::12:38:37 E.T.

Patent Term Adjustment

Filing or 371(c) Date:	07-29-2003	USPTO Delay (PTO) Delay (days):	359
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	106
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):	253
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
02-24-2006	Mail Notice of Allowance	7	
02-06-2006	Notice of Allowance Data Verification Completed	↑	
02-06-2006	Case Docketed to Examiner in GAU	↑	
02-05-2006	Date Forwarded to Examiner	↑	
01-31-2006	Supplemental Response		106
12-29-2005	Correspondence Address Change		↑
12-29-2005	Change in Power of Attorney (May Include Associate POA)		↑
08-29-2005	Information Disclosure Statement considered		↑
07-05-2005	Information Disclosure Statement considered		↑
03-16-2004	Information Disclosure Statement considered		↑
05-18-2004	Information Disclosure Statement considered		↑
04-15-2004	Information Disclosure Statement considered		↑
10-25-2005	Date Forwarded to Examiner		↑
10-17-2005	Response to Election / Restriction Filed		↑
09-16-2005	Mail Restriction Requirement	352	
09-15-2005	Requirement for Restriction / Election		↑
08-29-2005	Information Disclosure Statement (IDS) Filed		↑
07-05-2005	Reference capture on IDS		↑
07-05-2005	Information Disclosure Statement (IDS) Filed		↑
06-28-2005	Case Docketed to Examiner in GAU		↑
03-15-2005	IFW TSS Processing by Tech Center Complete		↑
03-15-2005	Case Docketed to Examiner in GAU		↑
03-16-2004	Reference capture on IDS		↑
03-16-2004	Information Disclosure Statement (IDS) Filed		↑
05-18-2004	Information Disclosure Statement (IDS) Filed		↑
04-15-2004	Information Disclosure Statement (IDS) Filed		↑
04-13-2004	Application Return from OIPE		↑
04-13-2004	Application Return TO OIPE		↑
04-13-2004	Application Return from OIPE		↑
04-13-2004	Application Is Now Complete		↑
04-13-2004	Application Return TO OIPE		↑
04-09-2004	Application Dispatched from OIPE		↑
04-12-2004	Application Is Now Complete		↑

03-16-2004	Payment of additional filing fee/Pream	↑
03-16-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑
04-09-2004	Correspondence Address Change	↑
12-16-2003	Notice Mailed--Application Incomplete--Filing Date Assigned	↑
10-14-2003	Cleared by OIPE CSR	↑
09-21-2003	IFW Scan & PACR Auto Security Review	↑
08-15-2003	CRF Is Good Technically / Entered into Database	↑
07-29-2003	CRF Disk Has Been Received by Pream / Group / PCT	↑
07-29-2003	Initial Exam Team nn	↑

[**Close Window**](#)

EXAMINER'S AMENDMENT

Priority

Applicant's claim in the Declaration of Inventorship and at the first page of the specification filed 29 July 2003 to priority under 35 U.S.C. § 119 of the 29 July 2002 filing date of US provisional application No. 60/398,721, is hereby acknowledged. With respect to its E362Q modification disclosed at page 28 of the priority document, the elected invention of Group 9 enjoys the priority of the 29 July 2002 filing date of Applicant's provisional application, but the remainder of the structural characteristics of the invention of Group 9 have priority only to the 29 July 2003 filing date of the instant application. This is because the only ADAMTS4 truncation variant that comprises the E362Q modification disclosed in the parent provisional application has a structure extending beyond the disintegrin domain, where SEQ ID NO:32 terminates its ADAMTS structure, and throughout the thrombospondin region adjacent thereto, and comprising the FLAG peptide tag, i.e., the sequence represented by SEQ ID NO:31 herein, which is the invention of Group 8.

Information Disclosure Statement

Applicant's five Information Disclosure Statements [IDS] filed on 16 March, 15 April, and 18 May 2004, and on 5 July and 29 August 2005, are hereby acknowledged. In the last of these IDS, a reference citation is lined-through on the executed forms PTO-1449 that accompany this communication because the citation is redundant.

Election and Preliminary Amendment

Applicant's Amendment filed 31 January 2006 was requested by the Examiner in a telephonic interview on 30 January 2006 and is commemorated in the accompanying Examiner's Interview Summary. The amendment has been entered, canceling claims 2-5, 7, and the non-elected claims 10-20 and amending claims 1, 6, 8, and 9 to more

Interview Summary	Application No.	Applicant(s)
	10/628,432	CORCORAN ET AL.
	Examiner	Art Unit
	William W. Moore	1656

All participants (applicant, applicant's representative, PTO personnel):

(1) William W. Moore, Examiner. (3) _____.

(2) Brian A. Fairchild, Applicant's Counsel. (4) _____.

Date of Interview: 30 January 2006.

Type: a) Telephonic b) Video Conference
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
If Yes, brief description: _____.

Claim(s) discussed: All pending claims and proposed new claims 21-33.

Identification of prior art discussed: None.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

No Docketing Necessary
KFS 2-27-06
 Administrator Date
CR + updated
 Reviewed & Approved

 Resp. Atty _____ Date _____

Examiner Note: You must sign this form unless it is an
Attachment to a signed Office action.

 Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: In order to advance prosecution, the examiner requested that Applicant's counsel submit, by facsimile transmission, an amendment that cancels claims 2-5, 7 and 10-20 and that amends claims to more specifically describe the structures of disclosed embodiments that comprise the key components of the modified human ADAMTS4 molecule elected in the Response filed 17 October 2005 and that further presents new, dependent, claims 21-33 drawn to ADAMTS4 molecules having those structural components and to particular ADAMTS4 molecules disclosed by sequence identifier.